

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

**JUAN C. ALDAYTURRIAGA and
MARIA E. ALFONSO d/b/a
MI PUEBLITO,**

Plaintiffs,

v.

NO. : _____

VALLEY FORGE INSURANCE COMPANY,

Defendant.

NOTICE OF REMOVAL

COMES NOW the Defendant, **VALLEY FORGE INSURANCE COMPANY**, and files this Notice of Removal of this dispute to the United States District Court for the Western District of Tennessee, Western Division, and would respectfully show unto this Honorable Court as follows:

I. Pending State Suit.

1. On May 26, 2009, Plaintiffs, Juan C. Aldayturriaga and Maria E. Alfonso d/b/a Mi Pueblito, filed a civil action naming Valley Forge Insurance Company in Cause No. 2009CV124, in the Chancery Court of Carroll County, Tennessee, for the Twenty-Fourth Judicial District at Huntingdon. The case for breach of contract and violation of the Tennessee Consumer Protection Act allegedly resulting from a fire loss on or about May 26, 2008, in Carroll County, Tennessee, is styled as follows:

Cause No. 2009CV124, Juan C. Aldayturriaga and Maria E. Alfonso d/b/a Mi Pueblito, Plaintiffs, vs. Valley Forge Insurance Company, Defendant.

2. The name and address of the Court from which the case is being removed is:

Chancery Court of Tennessee
Twenty-Fourth Judicial District
99 Court Square, Suite 105
Huntingdon, TN 38344
Phone: 731-986-1920

3. The following documents are indexed and attached hereto.

- a. Copy of the original Complaint served upon Valley Forge Insurance Company. (Exhibit A).
- b. Proof of service on Valley Forge Insurance Company via the Commissioner of Insurance with the State of Tennessee, Department of Commerce and Insurance, on or about June 3, 2009. (Exhibit B).
- c. Notice of Appearance filed on behalf of Valley Forge Insurance Company in state court. (Exhibit C).
- d. Civil Cover Sheet with complete list of all counsel of record, including addresses, telephone numbers and the parties represented by each. (Exhibit D).

4. No orders have been signed by the state court Chancellor.

II. Timing of Removal.

5. This Notice of Removal is filed within thirty (30) days of service of the Complaint upon Valley Forge Insurance Company, a Pennsylvania corporation, and is timely filed under 28 U.S.C. § 1446(b). Defendant, Valley Forge Insurance Company is the first and only Defendant to be served. Defendant, Valley Forge Insurance Company was served on June 3, 2009.

III. Jurisdiction.

6. This case is removed under 28 U.S.C. § 1446 on the basis of diversity of citizenship under 28 U.S.C. § 1332.

7. There is diversity of citizenship among all parties.

8. According to the original Complaint, Plaintiffs Juan C. Aldayturriaga and Maria E. Alfonso d/b/a Mi Pueblito were and still are residents of Huntingdon, Carroll County, Tennessee.

9. Defendant Valley Forge Insurance Company is a Pennsylvania corporation with its principal place of business in Chicago, Illinois.

10. This is an action seeking compensatory damages for alleged breach of contract and violation of the Tennessee Consumer Protection Act. The original Complaint, attached as Exhibit A, seeks damages in “the sum of One Hundred Eleven Thousand, Six Hundred Fifty-One

Dollars and Thirty-Eight Cents (\$111,651.38), plus prejudgment interest, from the Defendant.” Plaintiff’s ad damnum and request for damages makes evident that Plaintiff’s claim exceeds \$75,000.00.

11. The monetary jurisdictional limit for the Chancery Court in Tennessee is unlimited. See Tenn. Code Ann. §§ 16-11-102 and 16-11-103.

12. Because Plaintiffs seek damages of \$111,651.38, the monetary requirement of \$75,000.00 enumerated in 28 U.S.C. § 1332 is satisfied. Accordingly, jurisdiction under diversity of citizenship is proper in this Court.

IV. Venue.

12. Venue is proper in the United States District Court for the Western District of Tennessee, Western Division, as this case was filed within the Chancery Court of Carroll County, Tennessee, for the Twenty-Fourth Judicial District at Huntingdon, which is located within the United States District Court for the Western District of Tennessee, Western Division.

V. Notice to Adverse Parties into State Court.

13. Defendant, Valley Forge Insurance Company, as the removing party, is contemporaneously providing written notice of the filing of this Notice of Removal to the Plaintiffs as required by 28 U.S.C. § 1446(d).

14. Defendant, Valley Forge Insurance Company, as the removing party, is contemporaneously filing a Notice of Removal with the Chancery Court of Carroll County,

Tennessee, for the Twenty-Fourth Judicial District at Huntingdon, as required by 28 U.S.C. § 1446(d).

WHEREFORE, in conformity with 28 U.S.C. § 1446, Defendant, Valley Forge Insurance Company, respectfully removes this civil action styled “Cause No. 2009CV124, Juan C. Aldayturriaga and Maria E. Alfonso d/b/a Mi Pueblito, Plaintiffs, vs. Valley Forge Insurance Company, Defendant” currently pending in the Chancery Court of Carroll County, Tennessee, for the Twenty-Fourth Judicial District at Huntingdon, to the United States District Court for the Western District of Tennessee, Western Division.

Respectfully submitted,

**GLASSMAN, EDWARDS, WADE
& WYATT, P.C.**

BY: /s/ Richard Glassman
/s/ Kyle I. Cannon
RICHARD GLASSMAN (#7815)
KYLE I. CANNON (#22713)
Attorneys for Valley Forge Insurance Co.
26 North Second Street
Memphis, TN 38103
Phone: (901) 527-4673
Fax: (901) 521-0940
rglassman@gewwlaw.com
kcannon@gewwlaw.com
Our File: 09-247CGC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading has been properly forwarded via the Court's ECF system or via U.S. Mail, postage prepaid, to:

Mr. Michael U. King, Esq.
King Law Office
P.O. Box 667
Huntingdon, Tennessee 38344

this 29TH day of June, 2009.

/s/ Kyle I. Cannon